

**CITY OF FREMONT  
FACE MOU  
2003-2007**

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**MASTER  
MEMORANDUM OF UNDERSTANDING  
ON  
WAGES, HOURS, AND OTHER TERMS AND  
CONDITIONS OF EMPLOYMENT  
BETWEEN  
CITY OF FREMONT  
AND  
FREMONT ASSOCIATION OF CITY EMPLOYEES  
SEIU, LOCAL 790, AFL-CIO**

**ARTICLE 1 - ADMINISTRATIVE**

**SECTION 1: PARTIES TO UNDERSTANDING**

This Memorandum of Understanding (hereinafter "MOU") is entered into by and between the CITY OF FREMONT, a municipal corporation (hereinafter referred to as "City"), and the FREMONT ASSOCIATION OF CITY EMPLOYEES AFFILIATED WITH SERVICE EMPLOYEES INTERNATIONAL UNION (SEIU), LOCAL 790, AFL-CIO (hereinafter referred to as "Union"), pursuant to Government Code 3500, et seq. This Memorandum of Understanding applies to those classes of employment set forth in Appendix "A" attached hereto and made a part hereof.

**SECTION 2: RECOGNITION**

The City recognizes the Fremont Association of City Employees affiliated with SEIU, Local 790, AFL-CIO, as the exclusive representative for the purpose of establishing wages, hours, and other terms and conditions of employment for full-time and modified/part-time\* schedule employees in the classified service in the classes of positions set forth in Appendix "A", attached hereto and made a part hereof, as well as position classifications that may be added or deleted pursuant to the City of Fremont Employer-Employee Relations Resolution or by mutual agreement in writing between said Union and the Municipal Employee Relations Officer. The City also recognizes the Union as the exclusive representative for temporary employees and for provisional employees, which are specifically excluded from the classified service by Section 2-4107 of the Fremont Municipal Code, working in classifications listed in Appendix "A" of this Memorandum of Understanding.

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\* Modified/part-time schedule employees work at least 20, but less than 40 hours per week.

### **SECTION 3: DEFINITIONS**

#### **Full-time Regular Employee:**

An individual hired into the classified service in an authorized position and who regularly works a minimum of forty (40) hours per week.

#### **Flex Time:**

A variation of the start and ending time of an employee's work day not to exceed the scheduled hours in a work period.

#### **Alternate Work Schedule:**

A schedule that differs from the standard forty (40) hour 5/8 work schedule. Such examples may include 9/80 and 4/10 work schedules.

#### **Modified/Part-Time Work Schedule:**

A schedule of at least twenty (20) hours, but less than forty (40) hours per week.

#### **Temporary Employee:**

An individual hired for a limited duration that may be separated at any time without cause, notice, or any right of appeal.

#### **Provisional Employee:**

An individual possessing the minimum qualifications established for a particular class and who has been appointed to a position in that class for a limited period of time pending establishment of an eligibility list.

#### **Probationary Employee:**

A regular employee serving a probationary period.

#### **Modified/Part-time Regular Employee:**

An individual hired into the classified service in an authorized position and who regularly works at least twenty (20) hours, but less than forty (40) hours in a week. All benefits shall be prorated for employees that work a modified/part-time schedule, based on the resemblance an employee's schedule bears to a full-time schedule.

### **SECTION 4: APPLICABILITY OF PROVISIONS OF THE MEMORANDUM OF UNDERSTANDING**

The following sections of the Memorandum of Understanding are not applicable to persons employed in a temporary and/or provisional status in classifications listed in Appendix "A" of the Memorandum of Understanding.

<b>Items That Do Not Apply:</b>	<b>Article</b>	<b>Section</b>	<b>Page</b>
Reinstatement of Seniority	1	12	10
Uniform Allowance	2	6	13
Deferred Compensation	2	8	15
Anniversary Pay	2	9	15
Article 3, except Sections 1, 2, 4	3	All except 1,2,4	20-23
Retiree Medical	4	4	26
Military Leave	6	4	30
Grievance Process	7	All	30-32

## **SECTION 5: STATE LAW COMPLIANCE**

This MOU complies with the provisions of Section 3500, et seq. of the Government Code of the State of California, and Chapter 4.5, Title 2 of the Fremont Municipal Code, in that the Employer-Employee representatives noted herein did meet and confer in good faith and did reach agreement on those matters within the scope of representation.

## **SECTION 6: CITY COUNCIL APPROVAL**

It is the mutual understanding of the parties hereto that this MOU is of no force and effect in regard to matters within the authority of the City Council until this MOU is approved by the City Council.

## **SECTION 7: CONTINUATION OF EXISTING BENEFITS**

Except as provided herein, this MOU does not modify existing benefits established by resolution or ordinance. Such benefits as remain unmodified shall continue in full force and effect throughout the term of this Understanding.

## **SECTION 8: DISTRIBUTION OF MEMORANDUM OF UNDERSTANDING**

The City agrees to provide the Union with one (1) executed copy of the Master Memorandum of Understanding. The Union agrees to provide one (1) copy of the MOU to each person represented by the Union whether a member of the Union or not. Upon request, the City agrees to provide the Union with a list of all employees covered by this MOU.

## **SECTION 9: CITY RIGHTS**

The City reserves, retains and is vested with any management rights not expressly granted to the Union by this Agreement, the Personnel Rules or the Employer-Employee Relations Resolution. These City rights include but are not limited to the right to:

1. Determine and modify the organization of City government and its constituent work units.
2. Determine the nature, standard, levels and mode of delivery of City services.
3. Determine the methods, means, number and kind of personnel by which services are provided.

4. Impose discipline for just cause, subject to applicable law and the provisions of this MOU.
5. Relieve employees from duty because of lack of work or lack of funds, or for inability to perform the job as required, subject to the Personnel Rules.

Nothing in this Section shall relieve the City of its obligation to meet and confer on the impact of the exercise of rights enumerated in this Section.

## **SECTION 10: UNION RIGHTS**

### **A. Agency Shop**

Any worker who is employed in a classification covered by this MOU shall, as a condition of employment, be governed by the following provisions:

1. Workers employed as of May 10, 1997 or hired thereafter into a classification covered by this MOU shall authorize, within thirty (30) calendar days of hire, one of the following payroll deductions:
  - a. Union dues, or
  - b. Fair Share fee, or
  - c. Agency fee, or
  - d. If qualified, charity fees equal to the Agency fee payable to the Tri-City Homeless Shelter or SAVE (Shelter Against Violent Environments).
2. Each unit member shall elect to join the Union and pay normal dues and assessments, pay the Fair Share fee, pay the Agency fee, or pay the religious exemption payment. A Unit member failing to make an election shall be assigned the Fair Share fee option by the City.
3. The Agency fee payment shall be established annually by the Union and the fee shall be used only for the purposes of collective bargaining, contract administration and matters authorized by law. For a unit member to elect an agency fee, the member must comply with the procedures outlined by the Union consistent with legal requirements.
4. Annually, the Union will provide an explanation of the fee and sufficient financial information to enable the Agency fee payer to determine the appropriateness of the fee. The Union will provide a reasonably prompt opportunity to challenge the amount of the fee before an impartial decision maker not chosen by Local 790 and will make provision for an escrow account to hold amounts reasonably in dispute while challenges are pending.

5. The Union shall defend, indemnify and save harmless the City, its officers and employees from and against any and all loss, damages, costs, expenses, claims, attorney fees, demands, actions, suits, judgments, and other proceedings arising out of any action relating to this provision, except where such claims are based solely on the alleged negligence of the City in erroneously deducting a service fee in absence of fault or negligence by the Union. Legal counsel retained by Local 790 for any representation pursuant to this Section shall be subject to reasonable approval of the City.
6. This requirement may be rescinded by majority vote of all employees in the bargaining unit in the manner provided in Government Code 3502.5(b).

#### B. Organization Business

1. The President and ombudsperson of the Union shall be allowed time off with pay when approved by the municipal Employee Relations Officer (City Manager), or her/his designee, for the purpose of conducting union business. It shall be the responsibility of the employee to advise his/her supervisor of the expected absence from regular duties for the conduct of union business.
2. Other officers of the Union may be granted personal time off, paid or unpaid, for the conduct of union business. Reasonable advance notice must be given to the respective Department Head, or designee, for the use of any such time, and prior approval must be granted.
3. With respect to the meet and confer process, five (5) union representatives shall be the maximum number of employees who will be allowed concurrent time off without loss of compensation. The Union shall submit the names of all such employee representatives to the municipal Employee Relations Officer. The employee representatives shall request release time from their supervisors in advance of the meet and confer sessions to ensure that workloads can be covered. Approval of release time shall not be unreasonably denied.

#### C. Bulletin Boards, Meeting Facilities

The City shall furnish a bulletin board for the use of the Union to communicate with its members at each of the following locations: 1) Administrative Services Center, 2) Each floor of the Development Services Center, 3) Police Department, 4) Corporation Yard, 5) Youth & Family Counseling Center, 5) Animal Shelter, 6) Boat House.

The Union shall be provided with reasonable use of City facilities for the purpose of holding meetings with its members, provided such usage does not interfere with City business or revenue derived by the City from rental of such facilities.

### **SECTION 11: NON-DISCRIMINATION**

Neither the City nor the Union shall discriminate in any aspect of employment or membership based on political affiliation, race, religious creed, color, national origin, ancestry, sex, marital status, sexual orientation, age, medical condition (cured or rehabilitated cancer), or disability.

## **SECTION 12: REINSTATEMENT OF SENIORITY**

At the discretion of the City, a former employee who has resigned in good standing may, within ninety (90) calendar days of the effective date of his/her resignation, be re-appointed to that vacated position, if that position is not encumbered by another probationary or regular employee, or may be appointed to another position in the same classification.

Any former employee reappointed or appointed under this provision shall receive the appropriate full seniority credit for previous service for the purpose of determining future general leave accrual and length of service for the purpose of calculating seniority credit in the event of a reduction in force after adjustment for the unpaid leave of absence. Any such former employee reappointed or appointed under this provision shall have any previously existing sick leave bank reinstated in full and will have thirty (30) calendar days in which to elect and initiate the buy back of previously accrued general leave at the hourly rate in effect at the time of the buy back.

A former employee who is reappointed to the same classification and position encumbered prior to resignation under the provisions of this section shall not be required to serve another probation if he/she had previously completed probation in that classification.

A former employee who is appointed to a different position in the same or similar classification under the provisions of this section shall be required to serve another probationary period in that new position.

## **SECTION 13: AMERICANS WITH DISABILITIES ACT**

The Union agrees to and supports the City's intent to fully comply with the requirements of the Americans with Disabilities Act and the California Fair Employment And Housing Act including, but not limited to, providing reasonable accommodation to employees with disabilities.

## **ARTICLE 2 - SALARIES AND OTHER COMPENSATION**

### **SECTION 1: SALARIES**

- A. Effective June 29, 2003, the salary assigned to each classification represented by this bargaining unit shall be increased by four percent (4%) less 0.815%, for a net adjustment of 3.185%. Such reduction represents a portion of the employee share of the cost of the enhanced retirement benefit of 2.5% at 55.
- B. Effective June 27, 2004, the salary assigned to each classification represented by this bargaining unit shall be increased by an additional four percent (4%) less 0.815%, for a net adjustment of 3.185%. Such reduction represents the remaining employee share of the cost of the enhanced retirement benefit of 2.5% at 55.
- C. Salary increases for fiscal year 2005-2006 and 2006-2007 shall be subject to re-opener negotiations as provided in Article 11, Section 2 of this MOU.

- D. The parties agree that the re-openers described above shall be limited to the single issue of an across the board salary increase which may include implementation of a CPI formula to determine the increase.
- E. Nothing in this section shall preclude the parties from agreeing to a salary increase for fiscal year 2006-2007 during the discussions that occur in 2005.

## **SECTION 2: ACTING PAY**

- A. An employee specifically assigned by a Department Head, or his/her designated representative, on a temporary basis to a position in a higher classification and who, pursuant to such assignment, does perform all the significant duties and responsibilities of such position for five (5) consecutive days, shall be paid at the first step of the higher class or five percent (5%), whichever is the greater, retroactive to the first day of the temporary appointment.
- B. Assignment of employees to serve in an acting capacity, as defined above, shall be based upon methods determined by the Department Head.
- C. An employee specifically assigned by personnel action form on a temporary basis to a position in a management classification and who, pursuant to such assignment, does perform all the significant duties and responsibilities of such position for five (5) consecutive days, shall be paid at the bottom of the range of the higher class, or ten percent (10%), whichever is greater, retroactive to the first day of the assignment. The employee shall receive all benefits and conditions applicable to his/her regular classification.
- D. Nothing in this section shall limit management's authority to assign employees temporarily to a position of a higher classification for the purpose of providing training in the work or the position. Such temporary training assignments shall not constitute service in an acting capacity, as defined above, and shall only be made by mutual consent.
- E. In work units such as Building Inspection and Police Records where acting assignments are rotated among a group of employees, the five (5) days referenced in "A" and "C" above shall be cumulative on a calendar year basis.

## **SECTION 3: RECOGNITION PAY**

An employee assigned by a Department Head, or designee, to regularly perform work outside the scope of his/her permanent classification may receive Recognition Pay at the exclusive discretion of the City Manager or designee.

## **SECTION 4: CALL BACK**

- A. An employee who has departed from the employee's work location and is called back to work shall be entitled to a minimum of two (2) hours work or, if no work is performed, a minimum of two (2) hours pay.

- B. Such two (2) hour entitlement of pay, and any time worked in excess of two (2) hours per call back assignment, shall be compensated at time and one-half the employees regular hourly rate of pay.
- C. This minimum entitlement does not apply to employees who are called back to work within two (2) hours of their regular starting time.

## **SECTION 5: OVERTIME AND FLEX TIME**

### **A. DEFINITION OF THE WORK WEEK**

The regular work week shall consist of forty (40) hours within seven (7) consecutive days. Generally, the work week shall commence at 12:01 a.m., Sunday and end at 12:00 p.m. (midnight), Saturday.

### **B. PAYMENT OF OVERTIME - GENERAL RULE FOR EMPLOYEES WORKING FORTY HOURS IN FIVE DAYS**

Overtime work shall be defined as any time worked beyond the regular work day or beyond the regular work week. All paid time shall count as time worked for the purpose of computing weekly overtime. No employee shall have his/her regular work schedule changed in order to avoid meeting overtime pay requirements, except by mutual consent.

Except as otherwise provided by the other paragraphs of this Section listed below:

1. All hours worked in excess of eight (8) hours per day shall be compensated at the rate of one and one-half times the employee's regular hourly rate of pay, or,
2. All hours worked in excess of forty (40) hours per work week shall be compensated at the rate of one and one-half times the employee's regular hourly rate of pay.

### **C. PAYMENT OF OVERTIME - HOLIDAYS**

All hours worked on holidays shall be compensated at the rate of time and one-half, in addition to straight time holiday pay for eight (8) hours. Employees on a modified/part-time schedule shall be paid on a pro-rated basis. A holiday for the purpose of this section shall be defined as the City designated day for observing the holiday except for the following holidays which shall be defined as the actual date of the holiday: Christmas Eve, Christmas Day, New Years Eve, New Year's Day, Independence Day, and Veteran's Day.

### **D. PAYMENT OF OVERTIME - ALTERNATE WORK SCHEDULE**

An employee who has, pursuant to Article 1, Section 3, of this MOU, requested and received approval to work an alternate schedule shall be paid overtime at the rate of one and one-half times the employee's regular hourly rate of pay for all work in excess of the alternate daily or weekly work schedule.

## **E. PAYMENT OF OVERTIME – MODIFIED/PART-TIME POSITIONS**

### **Less than eight (8) hour days:**

1. An employee who pursuant to Article 1, Section 3 of this MOU, works a modified/part-time schedule shall be compensated at the rate of one and one-half times the employee's regular hourly rate of pay:
  - a. For all hours worked over eight (8) hours in a day, or
  - b. For hours worked in excess of forty (40) hours per week.

## **F. PAYMENT OF OVERTIME - MANDATORY MEETINGS**

Mandatory attendance at meetings which are scheduled beyond the employee's regular eight (8) hour work day or beyond the employee's regular forty (40) hour work week, such as scheduled training sessions and attendance at department meetings directed by the Department Head or his/her designated representative, shall be compensated for at the rate of one and one-half times the employee's regular hourly rate of pay subject to paragraph E above.

## **G. COMPENSATORY TIME OFF BANK**

Employees may exercise the option of accumulating overtime credits in Compensatory Time Off, in lieu of payment, at the same rates as set forth above. Compensatory Time Off shall be maintained in an account separate from the employees' accrued general leave, and shall be limited to a maximum accrual of two hundred forty (240) hours.

1. Employees will be required to irrevocably elect, prior to working the overtime, whether they wish to:
  - a. Receive cash for the overtime, or
  - b. Accrue the value of the overtime in a Compensatory Time Off bank pursuant to the Compensatory Time Off bank to a maximum accrual of two hundred forty (240) hours.
2. Employees will not be able to cash out Compensatory Time Off banks. Once accrued overtime is banked as Compensatory Time Off the employee may only access the Compensatory Time Off bank by taking time off.
3. Compensatory Time Off banks will be liquidated upon separation.

## **SECTION 6: UNIFORM ALLOWANCE**

- A. Effective July 1, 2003, the City shall pay a uniform allowance of six hundred dollars (\$600) per year in two (2) equal installments of three hundred dollars (\$300), one on the first pay day in January and one on the first day in July, to each classified employee in the classification of:

1. Police Records Specialist
2. Police Records Supervisor
3. Code Enforcement Officer I and II not assigned to the Fire Department
4. Community Engagement Specialist
5. Records Assistant
6. Traffic Support Specialist

Effective July 1, 2003, the City shall pay a uniform allowance of seven hundred and fifty dollars (\$750) per year in two (2) equal installments of three hundred and seventy-five dollars (\$375), one on the first pay day in January and one on the first pay day in July, to each classified employee in the position classification of:

1. Animal Services Supervisor
2. Animal Services Officer
3. Park Ranger
4. Supervising Park Ranger
5. Hazardous Materials Technician Trainee
6. Hazardous Materials Technician
7. Code Enforcement Officer II assigned to the Fire Department
8. Senior Code Enforcement Officer assigned to the Fire Department

- B. Employees who leave City employment, who change employment to a class not listed above, or who are no longer covered by this MOU shall not be eligible for nor be paid the uniform allowance for any part of the biweekly pay period during which their eligibility for such allowance ceases.
- C. An employee who is absent from work, for reasons other than authorized vacation, holiday, compensatory time off, or workers' compensation for all of the regularly scheduled work hours in a pay period shall not be eligible for nor receive the uniform allowance for each pay period in which such absences occur.
- D. Employees shall continue to be required to adhere to the maintenance standards, uniform specifications, and appearance standards established by the City.
- E. Any employee eligible to receive a uniform allowance shall be required to wear the uniform while on duty.
- F. New employees shall, as soon as is practical, but no later than two (2) pay periods after the initial date of employment, receive one half ( $\frac{1}{2}$ ) of the annual allowance for the purpose of reimbursing a portion of the initial uniform expense. New hires will be entitled to additional uniform allowance after six (6) months of employment with the City.

Any employee employed in a class or position for which a uniform allowance is provided pursuant to this MOU who, regardless of the reason, leaves employment in such a class or position prior to completing six (6) months of service, shall be required to repay to the City a pro-rata amount of the reimbursement of initial uniform expense and it shall be deducted from the employee's paycheck.

- G. The City agrees to continue the equipment replacement fund established to reimburse employees for departmental authorized uniform clothing or personal equipment damaged in the course of performing authorized duties. Any unused portion of the fund shall be credited to the following fiscal year. The City shall contribute to the fund the sum of fifty dollars (\$50.00) on July 1, 1987 and each year thereafter. The administration of this fund will be the sole responsibility of the Union.

#### **SECTION 7: COURT APPEARANCE PAY**

- A. Employees off duty who appear in court in response to a subpoena as part of their normal work assignment, shall be entitled to a minimum of four (4) hours pay at the rate of time and one-half the employee's hourly rate of pay.
- B. This minimum entitlement shall not apply to employees appearing in court during their regular work hours or appearing in court less than four (4) hours prior to the start of the work shift.
- C. A call to appear in court less than one-half (1/2) hour following the end of a shift (regardless of length of shift) shall be deemed a continuation of shift and shall not be subject to the four (4) hour minimum.
- D. When court meal breaks exceed one (1) hour, the employee shall be entitled to compensation at the rate prescribed in this Article for the amount of time by which the meal break exceeds one (1) hour.

#### **SECTION 8: DEFERRED COMPENSATION**

All employees, as defined by the plan document, covered by this MOU may participate in the City-sponsored Deferred Compensation Plan.

#### **SECTION 9: ANNIVERSARY PAY**

The City and the Union recognize the benefit of encouraging employees to remain with the City. To this end, the City will award those employees who, during the term of the MOU, complete, or have already completed fourteen (14) years of chronological service with a one time five hundred dollar (\$500.00) bonus, and nineteen (19) years of chronological service with a one time five hundred dollar (\$500.00) bonus. Modified schedule employees will receive a pro-rated bonus calculated as a ratio of their full time equivalent service to the applicable chronological service period. Payment shall be made in the pay period in which the employee's date of hire falls.

The above stated amounts are gross amounts and are subject to reduction based on the City's obligation to pay increased PERS contributions for employees receiving payments. Amounts distributed to employees shall be subject to individual deductions for Federal and State taxes and any other income related deductions.

## **SECTION 10: SHIFT DIFFERENTIAL**

In the event employees in any other bargaining unit are granted shift differential during the term of this Understanding, employees working the same or similar shifts in this unit shall be granted shift differential on the same basis.

## **SECTION 11: TRAINING PAY**

An employee assigned by personnel action form to provide training for another employee shall receive training pay of five percent (5%) over the regular rate of pay for all time spent performing such training. Eligibility for training pay is contingent on meeting all of the following requirements:

- A. Training duties are not already specifically incorporated in the employee's classification specification;
- B. The training employee is responsible for training the new employee in a specific list of tasks or functions;
- C. The training employee is responsible for evaluating the performance of the new employee during the training period; and
- D. The training duties have been assigned for five (5) or more consecutive regularly scheduled work days.
- E. It is agreed for the purposes of this provision that training of unrepresented temporary employees is excluded.
- F. Normal new employee department orientation shall not constitute training for the purposes of this article.

## **SECTION 12: TRAVEL TIME**

If an employee is required or is requested to attend a conference, training session, or other meeting, and the employee must spend time outside his or her normal workday to do so, the employee will be paid for all time worked, including travel time and time attending the meeting. Normal commute time will be excluded, i.e., the reasonable travel time to and from the site will be reduced by the employee's normal commute time.

The employee's department will have the option of using a flextime schedule to compensate the employee or pay the employee in accordance with Article 2, Section 5 of the Memorandum of Understanding.

## **SECTION 13: TUITION REIMBURSEMENT**

Effective July 1, 2003, the City shall fund a Tuition Reimbursement Program for use by regular FACE members. This program will provide reimbursement to FACE employees for

successful completion of courses, seminars and workshops that are related to employment opportunities with the City. The City will fund \$15,000 for each year of the term of this MOU. Unexpended funds from one year shall be carried forward to the next year.

The maximum reimbursement will be eight hundred dollars (\$800.00) per employee for each fiscal year of this MOU. The reimbursement will be provided if the following conditions are met:

- A. Request for reimbursement will be submitted to, and approved by the Human Resources Director prior to the start of the course. The Human Resources Director shall determine whether or not the course is employment related.
- B. Eligible expenses include required textbooks, tuition, fees, lab fees and equipment, but will not include parking fees or health fees related to enrollment.
- C. Employees must attain a final grade of "C" or better for both undergraduate and graduate work. Courses providing a "pass/fail" must achieve a "pass" to qualify for reimbursement. Ungraded seminars and workshops will be reimbursed based on proof of successful completion.
- D. Monies expended on tuition reimbursement will be subject to appropriate IRS regulations.
- E. Courses must be taken on the employee's off duty hours, unless prior approval is received from the employee's supervisor.

This program is intended to provide educational and career development opportunities, including licenses and certificates that are job-related, and shall not replace other training currently offered by the City.

#### **SECTION 14: BILINGUAL PAY**

Effective the 1<sup>st</sup> pay period after adoption of this MOU by the City Council in October 2003, the parties agree to eliminate the bilingual pay program as described in the 2000-2003 MOU.

### **ARTICLE 3 - LEAVES**

#### **SECTION 1: GENERAL LEAVE**

This General Leave plan replaces any and all General Leave plans in effect prior to July 1, 1992.

- A. The General Leave plan is in lieu of vacation leave, sick leave, emergency leave, supplemental leave, and personal leave.
- B. General Leave may be used for any leave purpose, but its use shall be governed by the Personnel Rules dealing with leaves. Supervisors shall respond within ten (10) working days to a written request for leave in excess of three (3) working days, provided the

request has been submitted within six (6) months of the date of the requested leave. Pre-approved leaves shall not be canceled except in emergency situations.

C. There shall be two categories of General Leave:

1. **Scheduled Leave**: Any leave that can be reasonably forecast or anticipated, i.e., vacation leave, scheduled medical/dental appointments, "extended weekends", personal leave, etc., shall require prior approval of the employee's supervisor.
2. **Unscheduled Leave**: Any leave that is genuinely of an unanticipated nature, i.e., "sick leave," bereavement leave, etc.

D. Leave Accrual

Years of Service	Accruable Leave Hours		Floating Holiday (non-accruable)	Max Limit on Accruable Leave Hours	Max Limit on Sick Leave Hours Rolled Over
	Per Year	Per Pay Period			
Date of hire through 5 years of service	192	7.3846	8	288	520
5 years + 1 day through 10 years of service	216	8.3077	8	324	520
10 years + 1 day through 15 years of service	240	9.2308	8	360	520
15 years + 1 day or more of service	264	10.1538	8	396	520

1. Each employee's maximum accrual of General Leave hours shall be equal to one and one-half (1.5) times the employee's annual entitlement. No hours will accrue above the maximum entitlement, except as noted in paragraph 1. a. below.
  - a. Employees who, on June 30, 1992, have a General Leave balance above their one and one-half (1.5) times maximum entitlement shall have an individual accrual limit which is the lesser of either:
    - (1) their actual General Leave bank balance on June 30, 1992 plus forty (40) hours; or
    - (2) their individually chosen maximum entitlement (cap), selected under the previous General Leave plan.
2. Hours accrued above the maximum general leave accrual entitlement shall be deposited into a Sick Leave Bank. The Sick Leave Bank shall not exceed 520 hours at any time.
3. Hours above the General Leave maximum accrual entitlement, as described in paragraph 1. a. above if applicable, may be maintained until such time as the hours are used and the General Leave bank balance drops below the one and one half times (1.5) annual entitlement limit, at which time the one and one half times (1.5) annual entitlement limit will apply. Normal accrual will continue, except that no

hours shall accrue above the one and one-half times (1.5) annual entitlement limit except as provided in paragraph 2 above.

4. Effective July 1, 1992, upon separation from City Service, the employee shall be compensated in cash for all accrued General Leave hours as follows:
  - a. The number of hours equivalent to the General Leave balance on June 30, 1992, will be the maximum number of hours that will be paid at an hourly rate based on the formula described below. If, upon termination of employment, the employee has fewer hours in the General Leave Bank than on June 30, 1992, the lesser number of hours will be paid at the rate based on the following formula:

monthly base pay plus 41.110% of monthly base pay multiplied by twelve (months in the year) divided by the number of hours in the year (e.g. 2080 hours for 40 hour per week employees).

Hours in excess of this June 30, 1992 balance will be paid at the base salary rate only upon termination. If, upon termination of employment, the employee has fewer hours in the General Leave Bank than on June 30, 1992, the lesser number of hours will be paid at the rate described above in this paragraph.

## **SECTION 2: USE OF SICK LEAVE BANK**

- A. Employees who have a sick leave bank may use sick leave for illness involving a member of the employee's immediate family requiring the care and/or involvement of the employee. The employee's immediate family is defined as wife, husband, child, brother, sister, parent, parent-in-law, grandparents, and grandparents-in-law, except that a relative or life partner residing in the same household may, for the purpose of this section, be considered as a member of the immediate family. A life partner is an individual who is in an established, long-term committed relationship (minimum of six [6] months) with an employee.
- B. Sick leave, either with pay or without pay, shall not be allowed for any absence resulting from illness or injury arising out of and in the course of employment by the City of Fremont. If sick leave is awarded in error, the City shall be entitled to recover the amount of salary paid on account thereof. Such sick leave shall then be restored to the account of the employee upon recovery by the City of the total amount paid.
- C. Accrued time in the sick leave bank shall not be compensated for in any manner except as used for sick leave as provided for in the Personnel Rules.
- D. In establishing the Sick Leave Bank, the City reserves the right to require that the employee furnish a medical doctor's verification as to the medical necessity of any claimed use of Sick Leave in absences of three or more days.

## **SECTION 3: HOLIDAYS**

- A. To be eligible for holiday pay an employee must be in paid status on the regularly scheduled work day before and after the designated holiday.

B. The following holidays shall be observed:

New Year's Day  
Dr. Martin Luther King, Jr. Birthday  
Washington's Birthday  
Memorial Day  
Independence Day  
Labor Day  
Veteran's Day  
Thanksgiving Day and the day following  
The day preceding Christmas, December 24  
Christmas  
The day preceding New Year's Day, December 31.

And one Floating Holiday (8 hours); each employee will be credited with 8 hours of non-accruable leave on the effective date of this agreement and each July 1 thereafter (hours to be prorated for new employees hired after the initial crediting or hired after July 1 of succeeding years). Hours may be scheduled to be taken as mutually agreeable to the employee and the department. Unused hours may not be carried over from one year to the next.

- C. Holiday hours shall be prorated for employees that work a modified/part-time schedule.
- D. Holidays which occur on a Saturday or Sunday shall be observed as provided in the Personnel Rules and Regulations.
- E. Should the City grant all other employee groups any other national or state observed holiday(s) the City will also grant such additional holiday(s) to employees covered by this MOU.
- F. Employees having a regularly scheduled work week which includes two (2) consecutive days off:
1. If on a regularly scheduled work day: day off (holiday pay);
  2. If on a regularly scheduled day off:
    - a. if on first day of two (2) consecutive days off the employee will get the day preceding the first normally scheduled day off.
    - b. if on second day of two consecutive days off the employee will get the day after the second normally scheduled day off.
  3. If two (2) consecutive days off fall on:
    - a. days normally scheduled for work, the employee gets the days off (holiday pay).
    - b. days normally scheduled off, the employee gets the day preceding and the day after off.

- c. a day worked and the first of two regularly scheduled days off, the employee gets the day off and the next regularly scheduled work day off.
- d. a day worked and the second of two regularly scheduled days off, the employee gets the second day off and the last previously scheduled work day off.

#### **SECTION 4: LEAVE WITHOUT PAY**

Except as provided in the Family and Medical Leave Act, and the California Family Care Leave Act, an employee may not take leave without pay until all accumulated paid leave time for which the employee is eligible is exhausted, except that an employee may be granted leave without pay without exhaustion of accumulated paid leave time when recommended by the Department Head and approved by the City Manager or designee.

#### **SECTION 5: JURY DUTY LEAVE**

Leave of absence with pay shall be granted to an employee who has been called for jury duty and from which s/he cannot be excused. An employee who serves on jury duty shall be paid his/her regular salary for the period of such duty.

When a shift worker is called to jury duty, the employee's schedule will be adjusted so that the combination of jury duty and work hours do not exceed the employee's normal daily and weekly schedule. Shift worker for the purpose of this paragraph means an employee who does not work eight (8) hours per day from Monday through Friday.

#### **SECTION 6: FAMILY LEAVE ACTS**

It is the City's intent to comply fully with the requirements of the California Family Rights Act (CFRA), the federal Family and Medical Leave Act (FMLA), California requirements regarding the Pregnancy Disability Act (pregnancy leave), the City of Fremont Personnel Rules (PR&R) regarding Leave Without Pay (LWOP), and the General Leave (GL) Plan.

#### **SECTION 7: PARENTAL LEAVE**

Leaves of absence for pregnancy shall be granted to employees as follows:

A pregnant employee may continue employment as long as her health and the health of the unborn fetus would not be adversely affected by the continued performance of the duties of her position. In conformity with the California Pregnancy Disability Act, the City at any time may require information from a doctor of medicine in making the determination of employment suitability. A pregnant employee may be absent from employment for a collective period of time not to exceed four (4) months during the term of pregnancy and post pregnancy period. The employee may choose to charge any portion of this period to any of her accrued unused paid leave balances. Such absences shall only be granted for medical reasons arising from the pregnancy, the subsequent childbirth, or other termination of the pregnancy.

An adoptive parent may be absent from employment for a collective period of time not to exceed three (3) months and may charge any portion of this period to any accrued unused

paid leave balances, except that the use of any accrued sick leave must be limited to six (6) weeks (240 hours).

All absences due to pregnancy, childbirth, or other termination of pregnancy and the ability of the employee to return to work shall be subject to verification by a doctor of medicine.

A pregnant employee must advise the City in writing of her intent to take pregnancy leave time off and to return to work.

Employees who comply with the foregoing shall be returned to employment with the City in the same classification with no loss of seniority or benefits accrued, but not used, prior to the commencement of such leave. Such leaves shall be administered consistent with City leave policies.

#### **SECTION 8: PERSONAL LEAVE DONATION**

In the event of a medical, personal or family emergency, employees covered under this MOU may donate or receive accrued and/or prospective leave accruals to or from other City of Fremont employees. Donations from employees and used by employees of donated leave time shall be administered through the Personal Emergency Time (PET) Bank, provided as follows:

- A. For purposes of this article, “medical, personal, or family emergency” shall mean circumstances in which an employee needs to take time off from, or reduce, their regular work schedule as the result of the illness or injury of himself or herself or illness or injury of a family member which requires their care. “Family member” shall be defined as: 1) a biological, adopted, or foster child, a step child, a legal ward under 18 years of age, and an adult dependent child over 18 years of age; 2) a biological, foster, or adoptive parent, a stepparent, a legal guardian, or a person who stood in place of a parent to the employee; 3) a spouse as defined or recognized under State law for purposes of marriage in the State of California; or 4) another relative residing in and a member of the same household or a life partner residing in the same household who is not a legal spouse.
- B. Only accrued vacation or general leave and future, unaccrued vacation or general leave may be donated. Neither sick leave nor compensatory leave time may be donated.
- C. The recipient employee will not accrue seniority during any period of donated leave usage.
- D. In order to receive donated time from the PET Bank, an employee must first exhaust all general leave, vacation leave, and sick leave banks, as applicable to the recipient employee.
- E. The point at which an employee may request use of the PET Bank shall be when all applicable leaves have been used down to an aggregate total of forty-five (45) hours and the employee anticipates that he/she will use all existing aggregate hours during the next pay period, because of the need to be absent from work more than forty-five (45) hours.

- F. The recipient employee will be responsible for payment of taxes due on the salary received when the leave is used.
- G. The donating employee cannot donate future leave accruals beyond the extent of accrued leave available at the time of donation.
- H. The donating employee cannot donate accrued leave in excess of their existing vacation or general leave balance.
- I. The City will determine whether or not a leave of absence will be approved for the recipient employee. The Family Medical Leave Act and California Family Rights Act guidelines will generally provide direction for evaluating leave requests.
- J. Neither the city nor the Bargaining Unit shall discriminate in any way with respect to the donation of accrued leave or future leave accruals based on race, religious creed, political affiliation, color, national origin, ancestry, sex, marital status, age, sexual orientation, medical condition, or physical or mental disability.
- K. In instances when the receiving employee does not use all donated hours, the hours not used will be returned to the donating employee unless the employee has requested otherwise.
- L. At the time of his/her donation, a donating employee may designate a specific recipient to receive donated hours.
- M. Employees in the Bargaining Unit may give or receive hours across bargaining unit lines consistent with reciprocating agreements with other City of Fremont bargaining units.
- N. PET Leave is intended for salary continuation only and shall not be used to pay the employee's benefits.

## **SECTION 9: ON THE JOB INJURY LEAVE COMPENSATION**

- A. The City and the Union agree that as of December 31, 2000, the first paragraph of Personnel Rule Article XII, Section 2.01, titled Disability Leave will no longer apply to employees covered by this agreement, and will be replaced by the following provisions.
- B. A full time, permanent employee who is unable to work as a result of injury or illness determined by the City as arising out of and in the course of his/her employment with the City of Fremont, shall be paid an amount which, together with the Workers' Compensation benefits to which he/she may be entitled, shall equal:

1. His/her regular rate of pay for the first sixty (60) calendar days (or hourly equivalent) of such entitlement to Workers' Compensation benefits; and
  2. 80% of his/her regular rate of pay for the sixty-first (61<sup>st</sup>) through three hundred sixty-fifth (365<sup>th</sup>) calendar days (or hourly equivalent) of such entitlement to Workers' Compensation benefits.
  3. The above entitlement to this compensation will cease when the employee is determined to be "permanent and stationary."
- C. If an employee is precluded from returning to work with the City of Fremont and retires (on either an industrial retirement or a service retirement) from the City of Fremont as a direct result of an on the job injury incurred on or after December 31, 2000; and he/she was paid 80% of his/her regular rate of pay, pursuant to B.2. above, for any period of time for which he/she was unable to work because of the injury/illness causing his/her retirement; then he/she may be eligible for supplemental retiree medical premium reimbursement, in addition to those provided in Article 4, Section 4 of this MOU, pursuant to the following provisions.
1. The City will determine whether or not the employee would have been entitled to a higher monthly basic retirement benefit under the Public Employment Retirement System (PERS) if he/she had been paid 100% of his/her regular rate of pay, rather than 80% of his/her base pay, for any period of time for which he/she was unable to work because of the injury/illness causing his/her retirement.
  2. If, pursuant to C.1. above, the City determines that the employee would otherwise have been entitled to a higher monthly basic retirement benefit, then the City will determine the monthly difference between the amount to which the employee would otherwise have been entitled and the amount he/she is actually eligible for under the PERS at the time of his/her retirement.
  3. Using the CalPERS Life Expectancy Tables based on the CalPERS 1993 Experience Tables, as they may be updated from time to time, the City will determine the number of years of remaining life expectancy (i.e. life expectancy – current age) of the employee.
  4. The City will then calculate the amount of monthly difference for each year of the remaining life expectancy, increasing each year's amount over the prior year's amount by a percentage equal to the PERS cost of living adjustment (COLA) factor in effect for the City of Fremont miscellaneous retirees at the time of the employee's retirement.
  5. The City will then total the monthly difference amounts for each of the years, and divide this total by the number of years of remaining life expectancy. The resulting dollar amount shall be added to the retiree medical premium reimbursement amount for which the employee is eligible pursuant to Article 4, Section 4 of this MOU.

## **ARTICLE 4 - INSURANCES AND BENEFITS**

### **SECTION 1: ALTERNATE BENEFITS AND COMPENSATION PLAN**

- A. The City shall secure and make available to all eligible employees, medical insurance, accidental death and personal loss insurance, child care reimbursement, excess medical expense reimbursement, and vision care under the Alternative Benefits and Compensation Plan (ABC Plan). The ABC Plan is a "cafeteria plan" as defined in Section 125 of the Internal Revenue Code.
- B. Any employee who is working on a modified/part-time work schedule shall have all benefits pro-rated on the basis of the employee's schedule. Modified/part-time work schedule requests may include an abridged work schedule of not less than 20 hours per week.
- C. The City contribution for insurance and other benefit coverage available under the Alternative Benefits and Compensation Plan is known as the Health Benefits Allowance (HBA).
  - 1. Effective July 1, 2002, the Health Benefit allowance shall be \$643.81 per month.
  - 2. Effective January 1, 2004, the Health Benefit allowance shall increase to \$724.29.
  - 3. Effective each January 1<sup>st</sup> thereafter for the term of the agreement, the HBA shall increase by 10%.
- D. In the event premiums and/or costs for the selected benefits exceed the amount of the HBA, the balance will be paid by the employee through automatic pre-tax payroll deductions, as allowed under IRS Code, Section 125.

Effective January 1, 2004, money not used for the purchase of medical insurance under the Plan will be paid to the employee in taxable cash up to a maximum of \$580 per month. For example: should the cost of the employee's medical insurance be less than the amount of the HBA, the employee shall receive the difference between the amount of the HBA and the cost of the medical insurance. However, at no time shall an employee receive more than \$580 per month in taxable cash under the terms of this provision.

Those employees who waive the medical insurance in accordance with the provisions established by the City, shall be eligible to receive taxable cash in the amount of \$580 per month.

- E. The City's contribution (HBA) as established above shall be the maximum amount required, and the City shall not be responsible for the contribution of any sum in addition to those established by the terms of this MOU.

The coverage, exclusions and limitations of each of the City sponsored plans are those that are in force on July 1, 2000, for the purpose of description of said plans. As provided under the Public Employees Medical and Hospital Care Act (PEMHCA),

medical care benefits are provided through the Public Employee's Retirement System Medical plans.

- F. Employees who elect coverage under plans offered by this agreement may also elect coverage for a domestic partner to the extent permitted by and according to the procedures of each individual plan.
- G. In the event the Federal government implements a nation-wide health care plan that mandates changes to the health and welfare programs described in this Memorandum of Understanding, the City and the Union shall agree to meet and confer in a timely manner to discuss the impact.

## **SECTION 2: DENTAL BENEFITS**

Effective January 1, 2001, the maximum benefit per patient per calendar year for the Delta Dental Service plan shall increase from Fifteen Hundred Dollars (\$1500.00) to Two Thousand Dollars (\$2000).

Effective, January 1, 2001 for each employee and his/her eligible dependents, the City agrees to pay the premium of the Delta Dental Service or Pacific Union Dental through Health Care Employees/Employer Dental Trust in the amount of \$114.60 per month. If the Dental plan premiums do not increase to the level of the City contribution, the difference shall be added to base salary.

Effective, January 1, 2004 for each employee and his/her eligible dependents, the City agrees to pay the premium of the Delta Dental Service or Pacific Union Dental through Health Care Employees/Employer Dental Trust in the amount of \$126.06 or the actual amount of the premium, which ever is less.

Effective each January 1<sup>st</sup> thereafter for the term of this agreement, the amount of the Dental premium will increase by 10% or the actual amount of the premium, which ever is less.

## **SECTION 3: VISION CARE**

A vision service plan will be available for all employees and their eligible dependents. The plan will provide benefits which include an eye exam and lenses every year and frames every two (2) years. The plan will include a ten dollar (\$10) deductible for all services. An employee may elect to enroll him/herself and any eligible dependents in the plan during the annual enrollment period. Enrollment and benefits will be subject to the conditions as provided in the plan.

## **SECTION 4: RETIREE MEDICAL BENEFITS**

1. Effective January 1, 2000, all current retirees and those who retire within 120 days of separation from the City, shall be eligible for reimbursement of up to \$140 per month for medical insurance premium payments actually made.

2. Effective January 1, 2004, all current retirees and those who retire within 120 days of separation from the City, shall be eligible for reimbursement of up to \$170 per month for medical insurance premium payments actually made.
3. Employees who do not separate and retire simultaneously, will become eligible for their initial medical reimbursement payment the first of the month after providing the City proof of retirement and medical coverage. The medical reimbursement amount will be reduced by the CalPERS-required employer portion of the premium if the employee purchases insurance through the CalPERS plan.

#### **SECTION 5: LIFE INSURANCE COVERAGE**

All employees covered by this MOU shall be provided forty five thousand dollars (\$45,000) of group term life insurance under a program to be selected and administered by the City.

Each employee shall have the option to purchase supplemental life insurance at no cost to the City. To qualify for the purchase of additional optional supplemental life insurance, the employee will be required to meet qualifications established by the insurance carrier.

#### **SECTION 6: SALARY CONTINUATION PLAN/LONG TERM DISABILITY**

- A. A salary continuation insurance plan will be selected and administered by the City.
- B. The maximum amount of insurable salary under the salary continuation plan shall be the employee's total base salary but shall not include any special allowances.
- C. Any employee electing coverage under the salary continuation plan will assume responsibility for payment of the entire insurance premium on an after-tax basis.
- D. Effective January 1, 1991, credit is given to the bargaining unit in the form of additional salary increase (which has been factored into the total compensation for the first year of this MOU) in lieu of the City paid premium.

#### **SECTION 7: CATASTROPHIC SICK LEAVE BANK**

The bargaining unit shall be credited with a maximum of one thousand (1000) hours of Catastrophic Leave each fiscal year during the term of the MOU for use by members of the bargaining unit. Seven hundred (700) hours of the total amount available will be designated for sick leave purposes and three hundred (300) hours will be designated for bereavement leave purposes.

The purposes of the Catastrophic Leave Bank are to 1) enable an employee who has been granted a leave without pay for medical purposes to receive full pay and benefits to the maximum extent possible, but not to exceed their regular salary and benefits for the period between the 31<sup>st</sup> and the 60th day of disability, and 2) to provide paid time off to employees for the purposes of bereavement time for the death of a member of the immediate family. Immediate family shall be as defined in Article 3, Section 3 of this agreement.

Each employee will be eligible for up to a maximum of twelve (12) hours per year of Catastrophic Leave for use in the event of a death in the employee's immediate family. Such time shall be used within thirty (30) days of the death of the family member. Eligibility for time shall exist until the total hours available for bereavement leave have been exhausted. To receive Catastrophic Leave for bereavement purposes, an employee must use his/her general leave hours in an amount equal to the number of hours he/she receives from the Catastrophic Leave Bank.

To receive Catastrophic Leave for the purposes of sick leave, employees shall be required to use any available leave banks for the first thirty (30) days of leave due to non-work related disability prior to utilization of time from the Catastrophic Leave Bank. For days thirty-one (31) through sixty (60) of leave due to non-work related disability, the employee who applies for and is granted a leave without pay shall be eligible for time from the Catastrophic Leave Bank provided he employee is approved for salary continuation benefits by the Long-Term Disability Insurance Carrier or the employee is certified as disabled by a person who is qualified to make such medical determination.

For purposes of PERS salary reporting, Catastrophic Leave which is used for sick leave is not considered salary. Additionally, catastrophic sick leave payment does not count as time worked for purposes of service seniority.

For purposes of PERS salary reporting, Catastrophic Leave which is used for bereavement purposes is considered salary and time used is counted as time worked for the purposes of service seniority.

Employees requesting use of Catastrophic Leave shall submit a written request to the FACE Unit President or designee, accompanied, in the case of sick leave, with a medical certification of disability for the period requested. Documentation will be forwarded by FACE to Payroll for processing. The FACE Unit President is responsible for coordinating leave requests, and Payroll will assume responsibility jointly with the Union for monitoring the leave hour balance.

## **SECTION 8: INSURANCE BENEFIT ADMINISTRATION**

The City shall have the exclusive right to determine and select the provider or method of providing benefit plan services and the methods of providing benefits for: medical, dental or other health care benefits; life, income protection or other benefits which may be provided through insurance plans, self insurances or similar procedures for providing such benefit plans.

If any change in benefit levels is proposed by the City, the City and the Union shall meet and confer in accordance with California Labor code Section 3500 et seq. and no change shall be made without mutual agreement.

## **ARTICLE 5 - RETIREMENT**

### **SECTION 1: PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS)**

The City agrees to continue the existing contract with PERS for employee retirement benefits which provides the 2.5% at 55 retirement formula.

### **SECTION 2: MILITARY SERVICE CREDIT**

The City shall provide the following Public Employment Retirement System optional contract provision, with the eligible employee required to contribute both the employer's and employee's contributions and interest: Military service credit, as specified in Section 20930.3 of the Government Code.

### **SECTION 3: CONVERSION OF EMPLOYER PAID MEMBER CONTRIBUTION TO BASE SALARY**

The Fremont Association of City Employees (FACE)/SEIU Local 790 and the City jointly acknowledge that Government Code Section 20022 defines compensation for the application of the Public Employees' Retirement Law (Government Code Section 20000 et seq.), and that the Board of Administration is expressly granted the authority to determine what constitutes compensation. The Fremont Association of City Employees (FACE)/SEIU Local 790 hereby expressly acknowledges that the City neither represents nor guarantees that items reported hereunder as compensation will be included in the calculation of retirement benefits nor does it assume any liability for a determination by PERS or any court or adjudicatory body that an item is not compensation for the purpose of calculating retirement benefits under the California Public Employees' Retirement Act.

### **SECTION 4: IMPLEMENTATION OF INTERNAL REVENUE CODE SECTION 414(H)(2) EMPLOYER PICKUP**

Effective July 1, 1994, the City increased base salary of employees encumbering positions in classifications represented by this bargaining unit in the amount of six and sixty-one hundredths percent (6.61%), and employees assumed responsibility for payment of the normal employee retirement contribution to the Public Employees' Retirement System (PERS). The City has designated such payment as an "Employer Pickup" as defined under the provisions of Section 414(H)(2) of the Internal Revenue Code.

### **SECTION 5: PERS RETIREMENT ENHANCEMENTS**

#### **LIST OF BENEFITS**

#### **EFFECTIVE DATES**

Military Service Credit	9/16/77
1-Year Final Comp.	7/1/87
Death Benefit/Remarriage	1/1/00
3% COLA	7/29/01
4 <sup>th</sup> Level 1959 Survivor	7/29/01
2.5% @ 55 Retirement Formula	8/11/02

## **ARTICLE 6 - HOURS AND SCHEDULING**

### **SECTION 1: MEAL PERIODS**

Employees in the classes of Animal Services Officer, Park Ranger, Animal Services Supervisor, and Park Ranger Supervisor, when assigned to an eight (8) or more hour workday shall have a thirty (30) minute meal period included within the hours of such scheduled workday.

It is understood that such employees shall be required to: remain on duty for the full number of hours of the workday, including said meal period; to respond to public service requirements; if on field assignment to remain in radio contact with the dispatcher; and if on duty at the animal shelter, eat their meal within the shelter building.

### **SECTION 2: ALTERNATE WORK SCHEDULE**

An employee may request of his/her Department Head or designee to work an Alternate Work Schedule. Alternate Work Schedules shall be defined as any schedule other than eight (8) hours per day, five (5) days per week. Examples include schedules such as four (4) ten (10) hour days per week or a modified/part-time schedule such as five (5) six (6) hour days per week.

All requests for Alternate Work Schedules must be in writing and clearly identify the schedule being requested, as well as the period of time the employee wishes to work the Alternate Schedule. The Department Head (or designee) shall respond in writing to the employee within twenty (20) days of the date the employee request was received. Such response shall include the duration and conditions under which the alternate work schedule would be approved or the reason(s) for its disapproval. The duration of the Alternate Work schedule shall not be less than four (4) months.

Alternate Work Schedules may be extended for specific time periods by mutual agreement of the employee and the Department Head/designee. Upon completion of the time period specified in the agreement between the parties the employee shall return to the work schedule she/he held prior to implementation of the Alternate Schedule. In the event of unforeseeable circumstances, either party to the Alternate Schedule may, with fourteen (14) day(s) notice to the other party, discontinue the Alternate Schedule prior to the completion of its term.

### **SECTION 3: STANDBY TIME**

No employees in the classified service who are employed in the classes of positions represented by the Union are required to perform standby duty.

In the event the City, in the future, contemplates the need of such standby duty to be performed by such employees, the parties to this MOU shall meet and confer on the issue of standby pay.

#### **SECTION 4: MILITARY LEAVE**

Military Leave shall be provided in accordance with Resolution 9713, as amended, and California Military and Veterans Code Section 395.

#### **SECTION 5: BREAK BETWEEN SHIFTS**

There shall be a minimum of eight (8) hours between the time an employee leaves work and next reports for regular duty unless otherwise agreed between the parties.

### **ARTICLE 7 – GRIEVANCE PROCEDURE**

#### **SECTION 1: PURPOSE**

The parties recognize that disputes should be resolved expeditiously at the lowest possible administrative level. This grievance procedure is intended to meet this goal and to assure that in presenting a grievance, the grievant and/or his/her representative is assured freedom from restraint, coercion, discrimination or reprisal.

#### **SECTION 2: DEFINITION**

A grievance shall be defined as:

- a) Any complaint concerning the interpretation or application of any ordinance, or of rules or regulations of the City or department governing personnel practices or working conditions, or of the practical consequences of a City rights' decision on wages, hours and other terms and conditions of employment; or
- b) Any complaint arising out of or in any way involving the interpretation or application of any of the provisions of the Master Memorandum of Understanding between the Fremont Association of City Employees affiliated with SEIU, AFL-CIO and the City of Fremont.
- c) An appeal from a disciplinary action taken against an employee such as dismissal, demotion, suspension, reduction in salary or transfer.

#### **SECTION 3: EXCLUSIONS**

- a) The procedures set forth in this article shall not apply in matters where other methods of appeal have been specifically provided for in State or other applicable law, such as, but not limited to, appeal of workers' compensation claim disposition and appeal of determination of retirement status under PERS.
- b) Written reprimand may be appealed to the City Manager within fourteen (14) calendar days of receipt. The City Manager or designee other than the Department Head involved shall review the circumstances and render a written decision within fourteen (14) calendar days of review. The decision of the City Manager/designee shall be final and conclusive. Employees may request that

Letters of Reprimand be removed from their file after three (3) years, provided there is no recurrence of the same or similar incident.

- c) Probationary employees who are rejected during probation shall have no right to appeal such action, except in cases where they allege that the termination was in violation of Title IV of the Civil Rights Act of 1964 or of other applicable State or Federal Law or Statute.

#### **SECTION 4: GENERAL PROVISIONS**

- a) Grievances resulting from discipline which have gone through a Skelly meeting shall enter the grievance process at Step 3.
- b) If the parties agree, other grievances may be initiated at a level higher than the initial step in the grievance procedure.
- c) Any other dispute resolution mechanism may be substituted for this procedure upon mutual agreement between the parties prior to invoking the arbitration provisions of this article.
- d) Nothing in these procedures shall prevent discussion or meetings between the parties at any time to clarify the facts in order to conclude the matter as promptly as possible.
- e) Time limits prescribed herein may be extended by mutual agreement of the parties. Failure by the employee or Union to follow the time limits, unless so extended, shall nullify the grievance. If the City fails to follow the time limits, unless so extended, the employee may advance the grievance to the next step.
- f) When an employee is asked to appear as a witness during any step of the grievance procedure, he/she shall be compensated at his/her regular rate of pay for actual time spent in such appearance during regularly scheduled working hours.

#### **SECTION 5: PROCEDURE**

It is the intent of both parties that disputes be resolved at the lowest level possible in an expeditious manner. When informal discussions do not result in a satisfactory resolution to the issue(s), the following formal procedure shall be utilized. A City of Fremont grievance submission form must be utilized in all grievance filings. Such forms shall be provided to employees by the City.

Step 1. **Formal Submission**. The employee or Union may submit the grievance in writing to the immediate supervisor within thirty (30) calendar days of the date the employee could reasonably be expected to know of the issue(s) giving rise to the grievance. The grievance shall state the specific section of the Memorandum of Understanding, or City ordinance or resolution or Personnel Rules alleged to be violated; or, the disciplinary action taken, the nature of the grievance, and the proposed resolution. The supervisor shall render a decision in writing to the employee and/or Union representative within fourteen (14) calendar days of the formal submission of the grievance. A failure to respond shall be considered a denial of the grievance.

Step 2. **Appeal to Department Head.** Should the grievance remain unresolved, the employee or Union may, within fourteen (14) calendar days after receipt of the supervisor's decision, submit the grievance in writing to the Department Head. The Department Head or his/her designated representative shall respond to the grievance in writing within fourteen (14) calendar days after receipt of the Step 2 grievance. A failure to respond shall be considered a denial of the grievance.

Step 3. **City Manger or Designee -- Union Representative.** Should the grievance remain unresolved, the employee or Union representative may, within fourteen (14) calendar days after receipt of the Department Head's response, submit the grievance in writing to the City Manger. The City Manger/Designee shall meet with the Union representative within fourteen (14) calendar days of submission of the grievance at Step 3 in order to attempt to resolve the dispute. The City Manager/Designee shall issue a written decision within fourteen (14) calendar days after the date of the meeting. A failure to respond shall be considered a denial of the grievance.

Step 4. **Arbitration.** Should the grievance not be resolved to the satisfaction of the Union or the City, either party may request arbitration as the final step in the appeal process by notifying the other party of their intent to utilize the services of an arbitrator. Such notice shall be in writing and shall be provided to the other party within fourteen (14) calendar days from the date of the City Manger/Designee's written notice of decision was received.

The Union and the City agree that the final and binding resolution of any grievance shall be by arbitration. The City Council confers to the City Manager the authority to carry out the decision of the arbitrator.

**Selection of Arbitrator:** Upon notice of intent to arbitrate, the Union and the City shall meet to select an arbitrator. If unable to mutually agree on the selection of an arbitrator, then a list of seven (7) arbitrators shall be obtained from the State of California Department of Industrial Relations. Nothing in this section will preclude the parties from agreeing to use a list of arbitrators provided from other sources. The parties shall initiate the selection process from the list received by flipping a coin to determine which party starts the strike out process. The parties shall then alternately strike names from the list until only one name remains and that individual shall be the arbitrator.

**Decision of the Arbitrator:** The decision, opinion, and award of the arbitrator shall be final and binding upon all parties, subject to review only under the provisions of California Code of Civil Procedure Section 1280 et seq. The arbitrator shall not have the power to add to, subtract from, or modify any of the terms of this Memorandum of Understanding and shall not have jurisdiction to make any award which would not have been authorized under applicable authority in the absence of this agreement to arbitrate, except by the joint prior authorization of the parties hereto.

**Costs of Arbitration:** The Union and the City agree to share equally all costs of the arbitrator and to be responsible for their own respective costs of making their presentation to the arbitrator. If by mutual agreement or requirement of the arbitrator,

services of a court reporter are utilized, the parties agree to equally share the cost of such services.

**Arbitrability:** If the question of arbitrability of an issue is raised by either the Union or the City, such questions shall be determined in the first instance by the arbitrator who shall upon request of any party, make his/her determination prior to hearing the merits of the case.

## **ARTICLE 8 - EMPLOYMENT SERVICES**

### **SECTION 1: POSTING AND FILLING OF POSITIONS**

- A. All City of Fremont job opportunities shall be posted on the City's internal and external websites, on bulletin boards throughout city offices, and in the Human Resources Department. Notices shall be posted and the position shall remain open for a minimum of eight (8) calendar days.
- B. In each vacancy announcement the department will identify the selection process which may be used to fill the vacancy including any testing that may be required.
- C. To qualify for an interview an employee must meet the minimum qualifications of the posted position, including passing any required testing, or be a lateral transfer to the position. The Department will offer an interview to all internal candidates who meet these requirements.

### **SECTION 2: CITY COUNCIL AGENDA**

The City shall provide a copy of the City Council Agenda to the Union at no cost to the Union.

### **SECTION 3: VIDEO DISPLAY TERMINALS-PREGNANT EMPLOYEES**

Pregnant employees whose job duties require frequent and extended exposure to video display terminals (VDT) may request a temporary reassignment.

Such transfer shall not be unreasonably denied by the City, and shall be limited to other positions which are vacant and which the transferee is qualified to perform; to a trading of positions where both employees mutually consent to the trade and are competent to perform the duties of the new job assignment; or to any position held by a temporary employee if the pregnant employee is qualified.

Neither person transferring shall have salary, seniority, or other benefits or conditions of employment altered as a result of such transfer, except by mutual consent of the parties of the contract.

This subsection shall remain in effect until such time as the hazards of prolonged VDT exposure, if any, to pregnant women are definitively identified by the United States Surgeon General, National Institute of Occupational Safety and Health or the California Occupational Safety and Health Administration.

#### **SECTION 4: CLASSIFICATION AND POSITION CHANGES**

The employee shall receive no less than (10) working days notice of an impending change in classification and/or position. Such notice shall be given in private to the affected employee.

The City shall provide advance notice to the Union of such changes; the parties shall meet and confer on the effects of such changes as may be required by general law.

#### **SECTION 5: VARIABLE DEMAND STAFFING**

A working definition of Variable Demand Staffing is work performed over an extended period, with no specific termination date, for fewer than twenty hours per week. The demand for such staffing may fluctuate for reasons pertaining to service demand, method of service delivery, seasonality of the demand for service, funding source (e.g. grants), etc. Some of the work may be performed by classifications represented by the bargaining unit. Compensation is based on an hourly rate and employees are required to participate in the deferred compensation plan for part time, seasonal, and temporary employees.

The City recognizes its obligation to meet and confer on the impact of the exercise of its right to determine the nature, standard, levels, and mode of delivery of City services; and to determine the methods, means, number and kind of personnel by which those services are provided.

#### **SECTION 6: EMPLOYEE TRANSFER/PROMOTION PROCESS**

An employee who applies for a position within the City and who competes for such position through a testing process may, upon completion of the testing and scoring process, request to have a meeting with Human Resources to review and discuss the employee's test results. Such meeting may include the employee, a representative of the Human Resources Department who is familiar with the scoring for individual applicants and the applicant may invite a representative of the Union. The purpose of the meeting will be to review the test results and provide the employee with feedback regarding the reasons for the employee's score and ranking. Employees will be notified of the opportunity to request such a meeting at the time the employee is provided with his/her score.

### **ARTICLE 9 – JOINT LABOR MANAGEMENT COMMITTEE**

The City and the Union agree that the Joint Labor Management Committee will continue to meet and discuss a variety of topics of interest to both parties.

### **ARTICLE 10 TEMPORARY AND PROVISIONAL EMPLOYEES**

#### **SECTION 1: EMPLOYMENT OF PERSONS IN A PROVISIONAL STATUS**

The following procedures shall apply to persons employed in a provisional status in classifications listed in Appendix "A" of this Memorandum of Understanding:

- A. Persons may be hired in a provisional status for no more than six months. No position may be filled by a provisional employee for more than six months. Employees hired on a provisional basis shall receive the full benefit package from their first day of employment.
- B. A person who is hired on a provisional basis on or after July 8, 1992 and is subsequently hired into a regular, classified position shall receive seniority credit for time spent in a provisional status on an hour per hour basis in the application of Article XVIII (Layoff Procedures) of the Personnel Rules (Resolution 688) on completion of the probationary period provided there is no break in service between termination from the provisional position and appointment to the classified position.
- C. An employee who has completed an original probationary period with the City and who accepts a provisional appointment to a position in a classification listed in Appendix "A" of the FACE Memorandum of Understanding shall be reinstated to his/her former position if he/she does not receive a probationary appointment to the position in which he/she served on a provisional basis. An employee who has completed an original probationary period shall have all rights contained in Articles 7 (Grievance Procedure) of this Memorandum of Understanding.
- D. Except as provided above, no person shall be employed in a provisional status in a classification listed in Appendix "A" of this Memorandum of Understanding.
- E. The City will post notices for provisional employment opportunities for positions represented by this bargaining unit.

## **SECTION 2: EMPLOYMENT OF TEMPORARY WORKERS**

The following procedures shall apply to persons employed on a temporary basis in classifications listed in Appendix "A" of this Memorandum of Understanding:

- A. Temporary work performed within the scope of a classification listed in Appendix "A" of the Memorandum of Understanding, shall only be permitted in one of the following circumstances:
  - 1. When filling allocated budgeted position vacancies in the absence of an employee on an approved leave or in a leave without pay status;
  - 2. When staffing temporary positions established for a specific project(s) with a scheduled time of completion or specific limitation on funding;
  - 3. When workload requirements necessitate additional staffing and a provisional or probationary appointment cannot be made due to financial, operational or workload considerations, subject to the following limitations: No such assignment shall last for more than two years;
  - 4. When filling staffing needs on a short duration basis or for tasks beyond those which can normally be accomplished by existing staff on an overtime basis. No employee under this subsection shall be employed in a temporary capacity for more than 999

hours. Under this subsection, no temporarily vacant position shall be filled by a temporary employee for more than 999 hours;

5. Persons hired through a temporary employment agency are not employees of the City and are excluded from the procedures of this Article. Prior to utilizing a temporary employment agency, the City will attempt to determine if there are qualified individuals from internal sources available to do the work.

Utilization of persons hired through a temporary employment agency is limited to six months duration;

6. Except as provided above, no person shall be employed on a temporary basis in a classification listed in Appendix "A" of this Memorandum of Understanding.

B. Persons appointed on a temporary basis shall be so appointed under the procedures described below:

1. All personnel employed on a temporary basis in classifications listed in Appendix "A" of the FACE Memorandum of Understanding shall be represented by SEIU, Local 790;
2. Departments wishing to make a temporary appointment will notify the Human Resources Department. The Human Resources Department will determine the correct classification necessary to perform the temporary work.
3. Employees hired under this procedure will be paid the applicable rate of pay for the classification to which assigned;
4. Temporary employees hired for periods which are expected to exceed 1000 hours shall receive all health and welfare and pension and other contractual entitlements of classified employees including ABC Cafeteria Plan enrollment from time of appointment;
5. Temporary employees hired for periods which are expected to be less than 1000 hours in duration shall receive an additional 15% of base pay in lieu of benefits for the duration of the temporary appointment or until such employee becomes eligible for benefits as described in subparagraph 6 below;
6. Any temporary employee who remains employed beyond 1000 hours shall have the option to be enrolled in the full benefit package or to continue receiving the 15% benefit in lieu payments.

Enrollment in the full benefit package shall be effective the first day of the month following the date the employee attains 1000 hours of employment except that enrollment in the Public Employees Retirement System (PERS) shall begin immediately upon attainment of eligibility under the Public Employee's Retirement Law. Upon enrollment in the benefit plans, payment of the 15% benefit in lieu payments shall cease. Additionally, the employee shall be credited with general leave and holiday time (for any holidays which occurred in the first 1,000 hours of work), equal to the amount

which would have accumulated by the employee during the period prior to implementation of benefits.

### **SECTION 3: RESOLUTION OF DISPUTES**

Employees covered by this Article and who are employed for more than 520 hours shall have the right to Union representation in resolving a dispute concerning the interpretation or application of the FACE Memorandum of Understanding, City ordinance or resolution, or the Personnel Rules. The ruling of the Department Head shall be final. This paragraph shall not apply in matters where other methods of appeal have been specifically provided for in general law, such as, but not limited to, appeal of worker's compensation claim disposition or appeal of determination of retirement status under PERS.

### **SECTION 4: TEMPORARY AND PROVISIONAL EMPLOYEES - MISCELLANEOUS PROVISIONS**

Upon request by the Union, the City will provide a list of all temporary and provisional employees working in classifications listed in Appendix A of this MOU.

## **ARTICLE 11 – TERM OF UNDERSTANDING/REOPENERS**

### **SECTION 1: TERM**

This Memorandum of Understanding incorporates all modifications regarding wages, hours and other terms and conditions of employment. The parties agree that all agreements made in previous Memorandum of Understanding, and not subsequently modified, have been included in this Memorandum of Understanding. Unless otherwise so provided, this Memorandum of Understanding shall be effective July 1, 2003 and shall expire June 30, 2007, subject to the re-openers as outlined below, and shall continue in effect from year to year thereafter unless terminated or modified as provided herein.

### **SECTION 2. RE-OPENERS**

1. No sooner than April 1, 2005 this Memorandum of Understanding shall be subject to a re-opener regarding the issue of cost of living adjustments for fiscal year 2005-06.
2. No sooner than April 1, 2006 this Memorandum of Understanding shall be subject to a re-opener regarding the issue of cost of living adjustments for fiscal year 2006-07.
3. At any time after June 30, 2006, the Union may provide notice to the City that it chooses to re-open the agreement for the sole purpose of negotiating the Health Benefit Allowance "cap" as established in Article 4, Section 1 (D).

### **SECTION 3: SEVERABILITY OF PROVISIONS**

Should any section, clause or provision thereof of this MOU be declared illegal by final judgment of a court of competent jurisdiction, such a determination shall not invalidate the remaining portions hereof, and all remaining portions shall remain in full force and effect for the duration of this MOU. Should any such invalidation occur, the parties agree to meet and consider alternate provisions to those declared invalid.

### **AGREEMENT**

Executed this \_\_\_\_ day of \_\_\_\_\_, 2003 by the Employee-Employer representatives whose signatures appear below.

FOR THE UNION:

FOR THE CITY:

\_\_\_\_\_  
Sue Oszewski  
Field Representative

\_\_\_\_\_  
Jan C. Perkins  
Chief Negotiator

\_\_\_\_\_  
Terence Wong  
FACE President

\_\_\_\_\_  
Nancy Carlson  
Human Resources Director

\_\_\_\_\_  
Julie Borchardt, FACE Member

\_\_\_\_\_  
Tricia Fan, Accountant

\_\_\_\_\_  
Sue Byrne, FACE Steward

\_\_\_\_\_  
Leslie Jennings, Employment Services  
Manager

\_\_\_\_\_  
Pat Christianson, FACE Member

\_\_\_\_\_  
Robert Nelson, Police Captain

\_\_\_\_\_  
Lisa Promes, FACE Member

\_\_\_\_\_  
Samuel Romano  
Labor Relations Officer

\_\_\_\_\_  
Damon Sparacino, Employee/Labor  
Relations Analyst

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**CITY OF FREMONT  
FACE CLASSIFICATIONS  
EFFECTIVE JULY 2, 2000**

**APPENDIX A**

**CLASS TITLE**

1. Animal Services Officer
2. Animal Services Supervisor
3. Assistant Chef
4. Assistant Landscape Architect/Designer
5. Associate Landscape Architect
6. Associate Planner
7. Auto Parts & Maintenance Coordinator
8. Building Inspector
9. Building Inspector Specialist
10. Case Manager
11. Chef/Food Service Manager
12. Code Enforcement Officer I
13. Code Enforcement Officer II
14. Community Engagement Specialist
15. Computer Specialist
16. Counselor
17. Crime Analyst
18. Development Services Supervisor
19. DP/Telecommunication Technician
20. Environmental Specialist I
21. Environmental Specialist II
22. Finance Operations Supervisor
23. Hazardous Materials Technician
24. Housing Counselor
25. Housing Programs Coordinator
26. Information Systems Applications Specialist I
27. Information Systems Applications Specialist II
28. Information Systems Applications Specialist III
29. Junior Accountant
30. Junior Landscape Architect/Designer
31. Network Administrator
32. Occupational Safety Analyst
33. Paralegal I
34. Paralegal II
35. Park Ranger
36. Plan Checker
37. Planner I
38. Planner II
39. Police Aide
40. Police Aide Coordinator
41. Program Coordinator

- 42. Public Education Coordinator
- 43. Real Property Agent
- 44. Real Property Assistant I
- 45. Real Property Assistant II
- 46. Recreation Supervisor I
- 47. Recreation Supervisor II
- 48. Revenue Collector/Auditor
- 49. Senior Code Enforcement Officer
- 50. Supervising Park Ranger
- 50. Support Specialist
- 51. Tennis Operations Supervisor
- 52. Tiny Tot Specialist
- 53. Zoning Technician

## **APPENDIX B**

### **SUPPORT STAFF CLASSIFICATION REVIEW**

During the July 1, 2000 to June 30, 2003 MOU, the parties agreed to implement a pilot program for a new classification and compensation system covering the clerical and technical support positions covered by this agreement. The system was referred to as the Position Point Placement Program. With the trial period ending on December 31, 2002, the parties now agree to review the clerical and support positions for the purpose of implementing a classification system designed with a focus on industry standards.

The parties hereby agree to the following process:

1. Consultant: Management agrees to contract with an outside vendor who is knowledgeable in public sector classification and compensation systems, for the purpose of conducting a classification and compensation study. The consultant will review all clerical and technical support positions covered by the MOU and currently included in the Position Point system. The study will involve four phases.
2. Data Collection: Incumbents of support positions and their supervisors will be involved in a variety of methods including questionnaires, individual or group interviews, and focus groups. All information gathered will be reviewed by a committee of both union and management representatives. Each employee will be provided copies of his/her individual questionnaire including any input received from the supervisor(s).
3. Data Analysis & Recommendations: During this phase, and with input from both parties, a classification system will be developed. Positions will be allocated within the structure based on the type of work being performed. The consultant and HR staff will also develop draft class specs during this phase. The Union will have the opportunity to review and provide input on the draft specs prior to distribution to Department heads, managers, supervisors, etc.
4. Review Process: HR and department heads, managers and supervisors, and incumbents will have an opportunity to review the proposed structure and draft specs, and to meet with the consultant to express concerns, suggest changes, etc.
5. Compensation Study: At the completion of the classification study and once all employees have been allocated to new classifications, the Consultant shall perform a compensation study of those public sector jurisdictions agreed to by both the union and management. The parties agree to meet and confer in accordance with the terms of the MOU and the provision of Government Code 3500 et. seq., for the purpose of implementing the results of the compensation study. Salary scales developed during the compensation portion of the study will provide a traditional five-step range structured in the same manner as other City classifications. No employee shall have his/her salary reduced as a result of the classification/compensation study.

6. Performance Appraisal Process: Support staff employees will continue to be evaluated in accordance with the provisions of the Position Point Placement System through December 31, 2003. Effective January 1, 2004, support staff employees will receive traditional 5% step increases based on satisfactory performance.

Bonuses will be paid to support staff employees who have reached the top of their salary range based on the following guidelines:

- a) Support staff employees who have reached the top of their range and who have received a performance evaluation score of performance plus or exceptional in their evaluation in calendar year 2003 will be eligible for a bonus.
- b) The amount of money available for bonus payments shall be the difference derived by calculating the amount received by those employees who were eligible for an increase based on a "performs well" evaluation verses the amount the employee would have received under the step program that provides for 5% step increases. It is understood that if the employee's range would not provide for the full 5%, the amount contributed toward the bonus program shall not exceed the difference between the actual salary and the top of the range.
- c) Support staff employees who are eligible to receive a bonus will receive shares of the available bonus pool with employees receiving a performance plus evaluation receiving one (1) share and employees with an exceptional evaluation receiving two (2) shares. The total number of shares which are awarded will be divided into the total funds available and the result will be the amount of money per share. Employees will receive bonuses based on the amount of shares they were awarded.
- d) Bonus money will be paid to employees no later than January 30, 2004.
- e) Bonus money will only be available for calendar year 2003.

## **APPENDIX C**

### **LETTER OF AGREEMENT BETWEEN THE CITY OF FREMONT AND FREMONT ASSOCIATION OF CITY EMPLOYEES (FACE)/SEIU 790 REGARDING POLICE AIDES AND POLICE AIDE COORDINATOR**

The City of Fremont, a municipal corporation (hereafter referred to as "City") and the Fremont Association of City Employees/SEIU Local 790 (hereafter referred to as "FACE"), agree to the following regarding representation of approximately ten (10) part-time and one (1) full time positions performing reception duties at the front counter in the Police Department. This Letter of Agreement complies with the provisions of Section 3500, et. seq., of the California Government Code, and Chapter 4.5, Title 2 of the Fremont Municipal Code, in that the employer and employee representatives noted herein did meet and confer in good faith and did reach agreement.

#### **SECTION 1: REPRESENTATION**

- A. The job title for temporary, part-time positions at the front counter in the Police Department shall be Police Aide. These positions shall be represented by FACE.
- B. The job title for one Police Department temporary, full time position shall be Police Aide Coordinator.

#### **SECTION 2: HOURS, WAGES AND BENEFITS**

- A. Hours of work vary, with the average being 18 hours per week for Police Aides and 40 hours per week for the Police Aide Coordinator. Shifts for Police Aides vary, with the average being three 6-hour shifts per week. Police Aides generally do not exceed 999 hours of work in a fiscal year. If the 999 hour limit is exceeded, PERS membership starts at 1,000 hours.
- B. The hourly rate for Police Aides is based on a five (5) step range consisting of the following hourly rates effective July 1, 2000: \$9.09 - \$9.63 - \$10.16 - \$10.70 - \$11.24. The hourly rate for the Police Aide Coordinator is based on a five (5) step range consisting of the following hourly rates effective July 1, 2000: \$10.70 - \$11.51 - \$12.31 - \$13.12 - \$13.92. Employees shall advance from step to step to the top of the range, with a one step advancement for each 1040 regular, non-overtime hours worked.
- C. Hours worked over eight (8) hours in a day or forty (40) hours in a work week result in overtime being paid at one and one-half times the employee's straight-time, base hourly rate. Overtime will be paid for more than 8 consecutive hours of work or when more than 8 hours are worked within a 24 hour period from midnight to midnight.
- D. The City shall provide two uniforms and a sweater/sweatshirt for Police Aides

and the Police Aide Coordinator.

- E. The Police Aide Coordinator will be provided the standard FACE benefit package for full time employees.
- F. The probationary period of employment for Police Aides and Police Aide Coordinators is 1040 regular, non-overtime hours of employment. This provision will be applied retroactively at the time of implementation, effective January 1, 1999.
- G. In the event of a layoff, layoffs will be implemented by seniority within the affected group, providing the remaining employees are available to work the hours needed.
- H. Holiday Pay – Hours worked during all Holidays are defined in the MOU, Article 3, Section 4-a, will be paid at one and one-half times the employee's straight-time, base hourly rate. When a holiday falls on a weekend, the one and one-half times base hourly rate will be paid for the actual holiday. The one and one-half times base hourly rate is the maximum that will be paid on holidays.
- I. If an employee is hired into a regular position with the City of Fremont following more than two (2) years of continuous service in the classification of Police Aide, seniority earned as a Police Aide shall be included in the total seniority accumulation for that employee.

### **SECTION 3: DISCIPLINARY ACTIONS AND DISCIPLINARY APPEAL**

- A. The disciplinary process is as noted unless the offense is of a nature that would warrant immediate notice of termination:
  - 1. First written reprimand;
  - 2. Second written reprimand
  - 3. Dismissal
- B. Employees can only appeal dismissal. The dismissal appeal can include appeal of previous written reprimand(s) if the employee has previously rebutted the reprimand in writing within ten (10) calendar days of the issuance of the written reprimand. Dismissal action must be appealed within ten (10) calendar days of the notice of appeal.
- C. Appeal is heard by a three (3) member panel comprised of City of Fremont employees. The panel will convene within ten (10) calendar days of appeal unless the parties mutually agree to extend the time. The decision of the panel is made anonymously and the decision to terminate is either sustained or denied.

- D. The panel of three will be selected from a total of eight (8) City of Fremont employees who were mutually selected by the City and Union to be available for hearing. Eight (8) employees shall receive training from the Union and City jointly on discipline standards: i.e., the panel should be able to determine whether or not the “act” happened but the panel should not be discussing or deciding what standard should be applied.
- E. The panel decides the issue based on the record and written presentation of argument from the City and Union. Written argument will not exceed three (3) pages per party (City and FACE). The panel may call witnesses if the issue of credibility exists. The panel may examine witnesses. The panel decides by majority vote. The decision of the panel is final and binding.
- F. The panel shall render a written decision within twenty (20) calendar days of the review of the appeal.

#### **SECTION 4: MISCELLANEOUS PROVISIONS**

- A. The existing streamlined hiring process shall not change. The current hiring system permits rapid response to staff fluctuations and does not follow the current standard classified hiring process.
- B. Entry qualifications for Police Aides and Police Aide Coordinators include but are not limited to the following:
  - 1. Clear background check, including polygraph;
  - 2. Ability to read, write and speak English;
  - 3. Ability to work flexible hours/days;
  - 4. Ability to work with the public;
  - 5. Ability to foster cooperation in the workplace.
- C. Duties and responsibilities for Police Aides and the Police Aide Coordinators include but are not limited to the following:
  - 1. Meet and direct the public in person and on the phone;
  - 2. Release accident reports and tow releases;
  - 3. Collect fees for reports issued;
  - 4. Accept deliveries at the front counter;
  - 5. Develop front counter schedule;
  - 6. Distribute mail;
  - 7. Retrieve voice mail message and route/respond as appropriate;
  - 8. Data entry of citations and pawn slips;
  - 9. Pull data for Dispatch as requested by Dispatch.
- D. In the event the Police Department intends to add duties to the Police Aide Front Counter positions, or if Record Specialists want to delegate duties to Police Aides at the front counter, the parties will meet to discuss whether such duties are appropriate.

### E. Police Aides Schedule

Employees will select shifts during each bidding period on the basis of seniority. Employees shall select two (2) or three (3) shifts per week.

An employee may elect to assume status as an 'alternate'. In such case, the employee will not select any shifts for the scheduling period. An employee who selects status as an 'alternate' shall move to the bottom of the seniority list for bidding on shifts during any future period unless such employee has obtained an authorized leave. Such leave will be granted at the discretion of the Chief of Police and be based on a personal emergency and shall not be granted for any longer than three (3) months. In the event of such authorized leave, the employee shall retain their seniority for future bidding periods. Seniority shall be defined as date of hire as a Police Aide.

The following language is incorporated as addendum to the above referenced Letter of Agreement:

If an employee is hired into a regular position with the City of Fremont following more than two (2) years of continuous service in the classification of Police Aide, seniority earned as a Police Aide shall be included in the total seniority accumulation for that employee.

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For the City
Date

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For the Union
Date

## **APPENDIX D**

### **LETTER OF AGREEMENT BETWEEN THE CITY OF FREMONT AND THE FREMONT ASSOCIATION OF CITY EMPLOYEES FACE/SEIU LOCAL 790 REGARDING TINY TOTS SPECIALISTS**

The City of Fremont, a municipal corporation (hereinafter referred to as "the City") and the Fremont Association of City Employees/SEIU 790 (hereinafter referred to as "FACE," agree to the following terms regarding employees of the City holding positions in the classification of Tiny Tots Specialists. This Letter of Agreement complies with the provisions of Section 3500, et seq., of the California Government Code, and Chapter 4.5 Title 2 of the Fremont Municipal Code, in that the employer and the employee representatives noted herein did meet and confer in good faith and did reach agreement.

The following terms replace and supercede previous agreements and practices regarding the methodology for salary computation, hours of work and scheduling for City of Fremont employees working as Tiny Tots Specialist except for those referred to below and included herewith as Attachments 1 and 2:

1. Tiny Tots Specialists shall record on a timesheet and be paid for actual hours worked beginning the pay period which includes July 1, 2003.
2. All prep hours will be paid when actually worked. Hours will be recorded on the employee's time sheet and tracked in the Payroll/HRIS system. Prep time allocation will be managed in a manner which is consistent with the formula and guidelines provided in Attached #1 hereto.
3. General leave accrual rate shall be based on hours worked beginning July 1, 2003.
4. General leave time may be used to make up for hours not scheduled during holiday breaks and summer up to a maximum of 33 hours per week. Summer vacation will be managed in accordance with Attachment #2 hereto.
5. Other insurance benefits would be set at 65% (1352 hours) for each working month. If the employee has any payroll deduction for benefits, he/she will be required to make payment to the City during non-working periods in order to maintain benefits.
6. Holidays will be paid on a pro-rated basis equal to the 65% benefit level.
7. Upon termination of employment, an employee working in the classification of Tiny Tots Specialists' actual hours worked shall be calculated and a reconciliation will be done to determine if the employee's benefit level has equaled hours actually worked. If the hours actually worked exceed the HBA benefit level received by the employee, the City shall pay the employee the additional benefit amount. If the

actual hours worked are less than the benefit level received, the employee shall reimburse the City for the overpayment from his or her final paycheck.

\_\_\_\_\_  
For the City Date

\_\_\_\_\_  
For the Union Date



# memorandum

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To: Tiny Tot Specialist Staff

From: Recreation Superintendent Duffy

Subject: Prep time

As you are aware, part of the Union negotiations for the upcoming contract addressed the allocation for prep hours.

On June 27<sup>th</sup>, 2000 Union representatives, Specialist staff and Recreation staff agreed to allocate some of the 55 hours of prep or class time before the beginning of the first 12-week session.

Per that agreement, the following formula has been developed:  
 $\frac{1}{2}$  an hour will be added for prep time per week per 2.5 to 3.5 hour class or a combination of 2 smaller classes that equal this amount.

Following are the changes in prep time based on the above mentioned formula:

Pauline Kirkland - Jackson  
 $.5 \times 3 \text{ classes} \times 4 \text{ weeks} = 6 \text{ hours per month}$

Donna Alaxander  
 $.5 \times 3 \text{ classes} \times 4 \text{ weeks} = 6 \text{ hours per month}$

Margie Vancil  
 $.5 \times 4 \text{ classes} \times 4 \text{ weeks} = 8 \text{ hours per month}$

Joanne Sprenkel  
 $.5 \times 5 \text{ classes} \times 4 \text{ weeks} = 10 \text{ hours per month}$

Any hours beyond those listed above must be pre-approved by the Tiny Tot Supervisor (i.e. parent meetings, workshop attendance, etc.).

**Previous prep time was 5 hours per month.**

In addition a part time coordinator has been hired to assist the Tiny Tot Recreation Supervisor with the day to day administration of the paper work and contact a n emergency substitute teacher for the program when need arrives. **This person is on duty ever day from 7:00 am to 11:00 a.m. Tiny Tot specialists no longer have to make multiple phone calls for emergency coverage.**

Please also note, a substitute Tiny Tot Specialist has been hired to be the number one backup in an emergency or to cover vacation request. In addition, this position will assume some of the previous duties of the Tiny Tot Specialist, such as photo copying/printing classroom materials, picking up/returning reference books from the library and support the part time coordinator when needed.

Lastly, since our meeting, the Tiny Tot Specialist reviewed the process for taking roll and discovered it was a very time consuming process. Therefore, Tiny Tot Specialist are also no longer required to transfer the names of the participants onto roster forms. Roll will be taken each day from the computer printout list that is provided at the beginning of each class session.

Management believes that these first steps will go a long way in resolving some of the issues identified in the negotiation meetings. As previously agreed upon, before the end of the second 12-week session, we will reexamine together how changes are working for one another.

Should you have any questions regarding this matter, please do not hesitate to contact me. I can be reached at 494-4330.

Ginny Duffy  
Recreation Superintendent

C: Phil Hagman Union Representative  
Sue Byrne Union Representative  
Sue Oszewski, SEIU Local 790  
Dennis Sparacino, Recreation Services Deputy Director  
Carol Childs, Recreation Supervisor, Tiny Tots



# memorandum

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To: Tiny Tot specialist Staff

From: Recreation Superintendent Duffy

Subject: Summer Vacation Time

As you are aware, part of the Union negotiations for the upcoming contract addressed the request for summer vacation time.

On June 21, 2000 Union representatives, Specialist staff and Recreation staff agreed to the following practice:

- All Tiny Tot Specialist staff are allowed one week off at a time in summer session excluding 1<sup>st</sup> and 2<sup>nd</sup> week of a session, or all 4-weeks
- Only one Specialist can be off at a time, unless other quality coverage is available as determined by management
- All summer vacation requests will be turned in by the end of February. The Tiny Tot Supervisor will notify the Specialist staff the status of their request by March 7.
- If two people request the same time off, grant for leave will be based on seniority (date of hire to permanent position). Rotation will then occur with next senior person in line.

Should an individual need confirmation for their vacation leave prior to the March date and the individual is aware that they have least seniority on the hiring list, that individual can solicit from the more senior staff a waiver verifying that their leave request will not coincide with the other Specialist request.

Should you have any questions regarding this matter, please do not hesitate to call. I can be reached at 494-4330.

Ginny Duffy  
Recreation Superintendent

C: Phil Hagman Union Representative  
Sue Byrne Union Representative  
Sue Oszewski, SEIU Local 790  
Dennis Sparacino, Deputy Director of Recreation Services  
Carol Childs, Recreation Supervisor, Tiny Tots

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**CITY OF FREMONT  
FACE MOU  
2000-2003**

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